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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/540,375

12/25/2006

Lorrain Sausse

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128 7590 01/22/2010  
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EXAMINER

DUFF, DOUGLAS J

ART UNIT

PAPER NUMBER

3748

MAIL DATE

DELIVERY MODE

01/22/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/540,375	<b>Applicant(s)</b> SAUSSE ET AL.	
	<b>Examiner</b> DOUGLAS J. DUFF	<b>Art Unit</b> 3748	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/29/09 has been entered.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 3-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Inoue et al. (US 4907952). Regarding claims 1 and 3-6, Inoue et al. discloses a turbocharger comprising a center housing (32), a variable nozzle device, and an exhaust housing (39c) being mechanically and/or thermally decoupled from the variable nozzle device (36a), wherein the variable nozzle device comprises a circumferential arrangement of vanes (43) interposed between a nozzle ring (36a) and an outer ring (inner 39c) integrally formed with a peripheral ring (outer 39c) fitted on said nozzle ring (36) and coupled to said center housing (32), characterized in that the peripheral ring is radially and axially spaced from the exhaust housing, so that any contact between the

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exhaust housing and the peripheral ring is avoided (at 42), whereby transmission of a mechanical or thermal load from the exhaust housing to the variable nozzle device does not occur (desired result of separation at 42), said exhaust housing is mounted directly to a center housing (at 59b) carrying a shaft with a turbine wheel, so that both housings define an inner space in which said variable nozzle device and said turbine wheel are located, said exhaust housing comprises a gas inlet portion (12) attached to said center housing and a gas outlet portion (40a) encompassing with an axially extending clearance a gas outlet portion of the variable nozzle device (38a), wherein the gas inlet portion of the exhaust housing comprises a flange member axially abutted via a sealing element (50a) to the center housing and mounted thereto by a fastening member (33), characterized by a sealing system for avoiding a gas leakage between the exhaust housing and the variable nozzle device (42, Figs. 2, 8, 10).

4. Regarding claims 7-10, Inoue et al. discloses a turbocharger according to claim 6, wherein the sealing system comprises a circumferential recess (42) formed in said gas outlet portion of the variable nozzle device and containing a piston ring, characterized by at least one further circumferential recess (inside recess of 39b) formed in said gas outlet portion of said exhaust housing and opened to said axially extending clearance between the gas inlet side of said exhaust housing and the piston ring, said vanes are pivotally supported on the nozzle ring (on 47), said nozzle ring being axially urged by the peripheral ring against an annular disc member (48) supported on said center housing, said gas inlet portion of the exhaust housing encompasses with a further axially extending clearance the peripheral ring (38b) of said

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variable nozzle device (at 60b) and said peripheral ring (38b, outer) is abutted against the same sealing element (50a) via which the flange member (at 50a) of the exhaust housing is secured on the center housing.

***Response to Arguments***

5. Applicant's arguments filed 10/29/09 have been fully considered but they are not persuasive. During the 10/1/09 telephone interview, Applicant proposed claim amendments directed to structural limitations to claim 1 including the decoupling of the exhaust housing. The amendment, as filed, does not include structural limitations that overcome Inoue.

6. The "whereby" limitation added to claim 1 is a desired result. It is desired by Applicant that the claimed turbocharger does not experience a transmission of mechanical or thermal energy between the exhaust housing and the variable nozzle device (junction at 42). Inoue teaches a seal ring 42 placed in a spaced clearance outside of 38a. This spaced clearance results in the insulation of a mechanical or thermal load at 42.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOUGLAS J. DUFF whose telephone number is (571)272-3459. The examiner can normally be reached on M-Th 7 AM - 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Denion can be reached on (571) 272-4859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Thomas E. Denion/  
Supervisory Patent Examiner, Art Unit 3748

/Douglas J Duff/  
Examiner, Art Unit 3748  
1/14/10